

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANGELINA GUTIERREZ,

Plaintiff,

v.

No. 1:15-cv-708

CORIZON HEALTH, INC.,

Defendant.

DEFENDANT CORIZON HEALTH INC.'S ANSWER TO COMPLAINT FOR DAMAGES

COMES NOW Defendant Corizon Health Inc. (hereinafter "Defendant"), by and through its counsel of record, Chapman and Charlebois, P.C. (Nicole M. Charlebois and Mark D. Trujillo) for its Answer to Plaintiff's Complaint for Damages, states as follows:

1. Defendant is without sufficient information to admit or deny the allegations contained in the unnumbered paragraph and therefore denies the same and demands strict proof thereof.

2. Defendant denies the allegations in Paragraph 1 of Plaintiff's Complaint based on diversity of citizenship and Defendant's Removal of the instant case to the United States District Court for the District of New Mexico.

3. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in paragraph 2 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

4. Defendant admits and denies the allegations in Paragraph 3 of Plaintiff's Complaint. Defendant admits that it is a foreign for-profit corporation that provides healthcare services to correctional facilities. Defendant further admits it maintains an agent for service of process in Santa Fe, New Mexico. With regard to the remaining

allegations contained in Paragraph 3, Defendant is without sufficient information to form a belief as to the truth of these allegations and therefore denies the same and demands strict proof thereof.

5. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 4 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

6. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 5 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

7. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 6 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

8. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 7 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

9. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 8 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

10. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 9 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

11. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 10 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

12. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 11 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

13. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 12 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

14. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 13 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

15. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 14 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

16. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 15 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

17. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 16 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

18. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 17 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

19. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 18 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

20. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 19 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

21. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 20 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

22. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 21 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

23. In answer to the allegations contained in Paragraph 22 of Plaintiff's Complaint, Defendant incorporates its answers to Paragraphs 1 through 21 as though fully set forth herein.

24. The allegations contained in Paragraph 23 of Plaintiff's Complaint states a legal conclusion to which no response is required. Should the allegations in Paragraph 23 or any part thereof be deemed to require a response, Defendant is without sufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

25. Defendant denies the allegations contained in paragraph 24 of Plaintiff's Complaint and demands strict proof thereof.

26. The allegations contained in Paragraph 25 of Plaintiff's Complaint states a legal conclusion to which no response is required. Should the allegations in Paragraph 25 or any part thereof be deemed to require a response, Defendant is without sufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

27. The allegations contained in Paragraph 26 of Plaintiff's Complaint states a legal conclusion to which no response is required. Should the allegations in Paragraph 26 or any part thereof be deemed to require a response, Defendant is without sufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

28. Defendant denies the allegation in Paragraph 27 of Plaintiff's Complaint that it had knowledge of Plaintiff's cancer or that it acted inappropriately. The remaining allegations contained in Paragraph 27 of Plaintiff's Complaint states a legal conclusion to which no response is required. Should the allegations in Paragraph 27 or any part thereof be deemed to require a response, Defendant is without sufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

29. Insofar as a response is required to the portion of Plaintiff's Complaint titled "Requested Relief", Defendant denies that Plaintiff is entitled to any of the relief as alleged in Paragraphs 1-6 of this section.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim against Defendant upon which relief can be granted.
2. Plaintiff's Complaint and allegations against Defendant are brought outside of the statute of limitations thus barring her from recovery against Defendant.
3. Defendant is entitled to have the jury determine whether Plaintiff and/or other persons were negligent or at fault and that such conduct, if found, should offset in whole, or in part, Plaintiff's recovery against Defendant.
4. Plaintiff has not suffered injury, damages or otherwise as a result of the acts, omissions or conduct of this Defendant.
5. Plaintiff failed to mitigate her damages.
6. Defendant states that if any persons or entities have paid to Plaintiff, or on Plaintiff's behalf, any medical expenses and such persons or entities have subrogated rights to the extent of those payments, then those persons and/or entities are indispensable parties to this lawsuit, and Plaintiff has failed to name them.
7. Defendant states that punitive damages against Defendant would violate provisions of the New Mexico and United States Constitutions, including but not limited to, the due process clause, the "excessive fines" clause of the Eighth Amendment, and the equal protection clauses of both Constitutions.
8. Defendant states that these affirmative defenses are preliminary, without the benefits of all facts underlying or pertaining to Plaintiff's claims and therefore, Defendant reserves the right to amend and assert additional affirmative defenses as discovery progresses.

JURY DEMAND

Defendant demands a 12 person jury for all issues triable to a jury.

WHEREFORE, Defendant Corizon Health Inc., having fully answered Plaintiff's Complaint, respectfully requests this Court dismiss Plaintiff's Complaint with prejudice, and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

CHAPMAN AND CHARLEBOIS, P.C.

/s/ Mark D. Trujillo

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I HEREBY CERTIFY that on this 12th day of August, 2015, the foregoing was served electronically through the CM/ECF File and Serve System and that a copy was sent first class mail to the following counsel of record:

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/s/ Mark D. Trujillo

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